

ED

<b>Notice of Allowability</b>	Application No.	Applicant(s)	
	10/797,907	YETKINLER ET AL.	
	Examiner	Art Unit	
	Anu Ramana	3733	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the interview conducted on March 28, 2007.
2. ☒ The allowed claim(s) is/are 33,36-40,42-45 and 47.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material

5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

*Anu Ramana*

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with the Attorney of Record, Bret E. Field, on March 28, 2007. See attached Interview Summary Form.

The application has been amended as follows:

In the Specification:

On page 3, line 1: replaced "6" with - - 6D - - to correct a minor typographical error.

On page 8, line 26: replaced "100,000 Hz\" with - - 100,000 Hz - - to correct a minor typographical error.

In the Claims:

In claim 33, after line 2 and before line 3: inserted

- - engaging a needle holder with a threaded recess in a vibratory element; - -
- - seating a needle in the needle holder; - -

In claim 33, line 3: replaced "said" with - - a - - to correct a minor typographical error.

In claim 33, line 4: replaced "said (first occurrence)" with - - a - - and in the same line, inserted - - through the needle - - after "target bone site" to clarify claim language.

In claim 36, line 1: deleted "said" to correct a minor typographical error.

In claim 36, line 2: deleted "cement is vibrated by applying" and in the same line inserted - - is applied - - after "force" and before "to" for clarity.

In claim 40, line 3: deleted "composition" to correct a minor typographical error.

Canceled claims 34, 35, 48-50, 53 and 54.

### **REASONS FOR ALLOWANCE**

The following is an examiner's statement of reasons for allowance.

The claims in the instant application have not been rejected using prior art because no references or a reasonable combination thereof, could be found which disclose or suggest a method introducing a calcium phosphate cement composition including the steps of: engaging a needle holder with a threaded recess in a vibratory element; seating a needle in the needle holder; positioning a hardware device at a target bone site; and delivering a calcium phosphate cement composition to the target bone site through the needle to produce a composite fixation structure of the hardware device and cement at the target site, wherein the cement is vibrated as it is delivered to the target bone site in a manner such that penetration of cement into the target bone site stops substantially simultaneously with cessation of vibration as set forth in claim 33.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anu Ramana whose telephone number is (571) 272-4718. The examiner can normally be reached Monday through Friday between 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached at (571) 272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AR

March 29, 2007

A handwritten signature in black ink, appearing to read "Anu Ramana".

Anu Ramana  
Patent Examiner  
Art Unit 3733